

Office of School Facilities
Jaime G. Torrens, Chief Facilities Officer

SUBJECT: AUTHORIZE THE SUPERINTENDENT TO:

- 1) EXECUTE AN AMENDMENT TO THE EXISTING LEASE AGREEMENT BETWEEN THE SCHOOL BOARD AND SOUTH FLORIDA AUTISM CHARTER SCHOOLS, INC. ("SFACS"), TO EXTEND THE TERM OF THE LEASE FOR ONE MONTH FOR THE OPERATION OF A DISTRICT-MANAGED CHARTER SCHOOL, LOCATED AT 13835 N.W. 97 AVENUE, HIALEAH, FLORIDA; AND
- 2) EXECUTE A NEW LEASE AGREEMENT WITH SFACS, TO ALLOW FOR ITS RELOCATION TO A PORTION OF THE COUNTRY CLUB MIDDLE SCHOOL CAMPUS, LOCATED AT 18305 N.W. 75 PLACE, MIAMI, FLORIDA, FOR THE CONTINUED OPERATION OF A DISTRICT-MANAGED CHARTER SCHOOL; AND
- 3) GRANT OR DENY ALL APPROVALS REQUIRED UNDER BOTH LEASE AGREEMENTS REFERENCED ABOVE, INCLUDING INCREASING OR DECREASING THE AREA OCCUPIED BY SFACS, AND RENEWING, EXTENDING, CANCELING OR TERMINATING THE LEASE AGREEMENTS, AND PLACING SFACS IN DEFAULT, AS APPLICABLE

COMMITTEE: FACILITIES AND CONSTRUCTION

LINK TO STRATEGIC FRAMEWORK: FINANCIAL EFFICIENCY/STABILITY

Background

Since June 2012, South Florida Autism Charter Schools, Inc. ("SFACS") has occupied a portion of the Board-owned facility located at 13835 N.W. 97 Avenue, Hialeah, Florida ("Board-owned facility") to operate a District-managed charter school. SFACS uses approximately 24,524 square feet of space, as well as non-exclusive use of portions of the parking lots and playfield, pursuant to an existing lease agreement ("Existing Agreement") between the parties. The District provides administrative and operational

services to SFACS through a Management Agreement. The current term of the Existing Agreement expires on June 30, 2015.

The Board-owned location is scheduled to be retrofitted into a K-8 center (the "Bond project") as part of the GOB program, which will require that SFACS vacate the premises at a future date but in no event, any earlier than January of 2016. That notwithstanding, in order to allow uninterrupted operation with no disruption to the educational environment while continuing its search for acquisition of a permanent site, SFACS determined it would be best to relocate to a new facility effective July 1, 2015. To that end, the District and SFACS identified a portion of the Board-owned Country Club Middle School, located at 18305 N.W. 75 Place, Miami ("New Location"), as an interim suitable location for use by SFACS under a new lease agreement ("New Lease"). SFACS's use of the New Location will be for a maximum two-year period, with no further extensions without further Board action. An amendment to the SFACS charter contract is being presented to the Board at the June 17, 2015 meeting, under agenda item D-65, to reflect SFACS's change in location.

Proposed Amendment to Existing Agreement

The Deputy Superintendent/Chief Operating Officer, School Operations, and the Office of School Facilities recommend the following:

- amending the Existing Agreement to extend the term for the period of July 1, 2015 – July 31, 2015 under the same terms and conditions, including reimbursement to the Board for its prorata share of operating expenses for the month of July;
- concurrently entering into the New Lease with SFACS at Country Club Middle School (the "School") for the period of July 1, 2015 – June 30, 2016, under substantially the following terms and conditions:
 - SFACS shall have use of approximately 24,800 square feet of classroom ancillary space within the School, as well as non-exclusive use of the north portion of the playfield area (collectively the "Demised Premises") (see Exhibit "A");
 - SFACS shall have use of six (6) reserved parking spaces within the School parking lot, as assigned and designated by the School administrator or designee. All other employees of SFACS may park in the School parking lot on a first-come first-served basis, in the parking spaces not reserved for School or District staff;
 - SFACS shall have non-exclusive use of the School's rear drop-off area on a daily basis from 7:00 a.m. to 7:45 a.m., and from 1:50 p.m. to 3:15 p.m., for parent and bus drop off and pick up;
 - an initial lease term of one (1) year, with the ability to extend for one (1) additional one-year period, at the mutual agreement of the parties. SFACS

- acknowledges and agrees that no further extensions will be available beyond June 30, 2017, without further Board action;
- SFACS shall notify the Board in writing by 4 p.m., August 14, 2015, of any requested adjustments to the Demised Premises, which request, if approved by the Superintendent, shall be reflected in the New Lease and all appropriate adjustments will be made thereto, including any required changes to the exhibits;
 - in the event SFACS seeks to expand or decrease the Demised Premises subsequent to occupancy, SFACS shall notify the Board in writing at least ninety (90) days prior to the proposed effective date of such adjustment, which approval may be granted by the Superintendent, at his sole discretion, and the amount of Operating Expenses and all appropriate exhibits to the New Lease shall be adjusted prospectively, accordingly;
 - SFACS may request certain interior improvements to the Demised Premises. If approved, all work shall be performed in compliance with all applicable laws, rules and regulations, including, without limitation, the Florida Building Code, the Americans with Disabilities Act, the Jessica Lunsford Act, the State Requirements for Educational Facilities, and the Miami-Dade County Public Schools criteria and standards, as the same may be amended from time to time, and at the sole cost and expense of SFACS;
 - the District's Building Department shall review and approve any required construction documents, issue any required construction permits and provide final acceptance of any work at the Demised Premises;
 - SFACS shall accept the Demised Premises, including, but not limited to, classroom space, grounds, and parking lots, in its "as is, where is" condition as of the commencement date of the New Lease, with no representations or warranties by the Board as to the physical condition or usability of the Demised Premises for any specific use or purpose;
 - if, while in its period of use under this New Lease, there is a requirement for infrastructure improvements or other regulatory compliance due to the lease, use or occupancy of the Demised Premises by SFACS, SFACS shall be responsible for fulfilling the applicable requirements, at its sole cost and expense;
 - SFACS shall surrender the Demised Premises to the Board, at the expiration, termination or cancellation of the New Lease in as good condition as existed on the commencement date of the New Lease, ordinary wear and tear excepted, including removal of all personal property and other items belonging to SFACS. Any improvements constructed by SFACS shall be removed and the area restored to the

- same or better condition as previously existed, unless the Board, at its sole option, chooses to keep the improvements;
- rent at \$1 per year, with SFACS to reimburse the Board for its prorata share of the School's operating expenses borne by the District, including, but not limited to, routine building and grounds maintenance, custodial/janitorial services, trash pick-up, utilities and property insurance ("Operating Expenses"). This amount will be reconciled at the end of each year, and a new amount established for the following year and each year thereafter, if any, based on actual costs incurred by the Board. The difference, if any, between the amount collected and the actual incurred costs shall be reimbursed or credited to the applicable party;
 - based on the actual fiscal year 2013-14 expenses, the amount of Operating Expenses for the initial lease term is estimated at \$5.32 per square foot, for a total of \$131,936 annually. This amount covers SFACS's proportionate share of Operating Expenses based on SFACS's 100% use of classroom space and office space and 50% use of the dining facility;
 - in the event SFACS wishes to use the Demised Premises on days when the School would otherwise be closed (e.g. Saturdays, Holidays), SFACS shall provide the School administrator with a written request, listing the days SFACS would like use of the Demised Premises, for review and approval. SFACS shall reimburse the Board for operating costs borne by the District to keep the School open on such days, including utilities and custodial/janitorial staff and services;
 - either party shall have the right to cancel the New Lease, without cause or penalty, by giving the other party at least ninety (90) days prior written notice, provided the effective date of such cancellation by the Board does not fall during the regular school year, as defined by the Board's Elementary and Secondary School Calendar;
 - in the event of default by SFACS, which default is not cured within the prescribed timeframe, the Board shall have the right to immediately cancel the New Lease and occupy the Demised Premises;
 - in the event of default by the Board, which default is not cured within the prescribed timeframe, SFACS shall have the right to immediately cancel the New Lease;
 - SFACS shall provide proper supervision and security in its use of the Demised Premises. In that regard, a member of SFACS's staff shall be stationed outside SFACS's entranceway to Building 01, from 7:00 a.m. to 8:30 a.m. on a daily basis, and, in addition, SFACS shall, at its expense, install, maintain and operate an electronic notification system outside SFACS's entrance way to Building 01 to notify SFACS of parents and

visitors;

- SFACS may, if and as agreed to by the School administrator, use Board-owned furniture, fixtures and equipment (“FF&E”) located within the Demised Premises as of the commencement date of the New Lease, subject to an inventory to be conducted jointly by the School administrator and SFACS, which inventory shall become an exhibit to the New Lease. Prior to the commencement of any option period, the inventory must be updated based on a joint assessment by the School administrator and SFACS. SFACS shall replace or provide compensation to the Board for any damaged or missing items at the then current cost;
- the Board shall retain the exclusive right at all times to be the sole authorizer and recipient of revenue generators, such as but not limited to third party advertising, the installation of wireless telecommunications facilities and other similar endeavors, in compliance with Board Policies, provided however, that such endeavors shall not interfere with SFACS’s rights to peaceful enjoyment under this New Lease;
- the Board shall retain the right to provide before and after school care services within the School, in space not used by SFACS, at the Board’s sole option;
- SFACS shall be allowed to erect identification signage, subject to Board approval and in conformance with laws and regulations governing public schools, with said signage to include “a Miami-Dade County Public Schools Managed Charter”;
- in the event of damage or destruction of all or portions of the Demised Premises, other than damage or destruction caused by SFACS, the Board may, at its sole option, either cancel the New Lease, or repair or replace the damaged facilities, at the Board’s expense;
- damage or destruction of all or portions of the Demised Premises caused by SFACS, shall be repaired by SFACS at its sole cost and expense. In the alternative, and if agreed to by the parties, the Board shall repair the damaged or destroyed facilities or items, and SFACS shall reimburse the Board for the cost of same;
- SFACS shall acknowledge and accept the authority of the Board to request and authorize audits, inspections, and reviews, including, but not limited to, the authority to access SFACS’s records, its legal representatives’ and contractors’ records and the obligation of SFACS to retain and make those records available upon request;
- SFACS shall provide the Board with evidence of insurance in the types

and amounts of coverage as required by the Board, including but not limited to Commercial General Liability Insurance, Automobile Liability Insurance, Workers' Compensation Insurance and Property Coverage (covering its contents), or as may be amended from time to time, and naming the Board as an additional insured on the Commercial General Liability Insurance;

- SFACS shall indemnify and hold the Board harmless from all liability which may arise as a result of SFACS's negligence, actions or failure to act under the terms of the New Lease;
- the Board shall indemnify and hold SFACS harmless, subject to the monetary limitations contained in Florida Statute, Section 768.28, from all liability which may arise as a result of the Board's negligence, actions or failure to act under the terms of the New Lease;
- SFACS shall not use, handle, generate, manufacture, produce, store, discharge, treat, remove, transport or dispose of Hazardous Substances at, in, upon, under, to or from the Demised Premises;
- SFACS shall comply with all applicable laws, rules, regulations, ordinances and codes of all governmental authorities, including, without limitation, Board Policies, the Americans with Disabilities Act and the Jessica Lunsford Act;
- SFACS may not assign or sublet any portion of the Demised Premises;
- the New Lease shall be deemed inferior and subordinate to any existing or future financing or conveyance by the Board of the School site or any portions thereof;
- the New Lease shall be construed and enforced according to the laws of the State of Florida and the venue for any disputes shall be Miami-Dade County, Florida;
- in the event of any litigation between the parties under the New Lease, each party shall be responsible for its own attorney's fees and court costs through trials and appellate levels;
- SFACS shall be responsible for the payment of any taxes, fees or other assessments, including but not limited to sales tax, imposed on the School site due as a result of the occupancy and use of the Demised Premises by SFACS;
- for purposes of the New Lease, the Superintendent of Schools or his/her designee shall be the party designated by the Board to review and approve matters related to any construction by SFACS at the School, and

- reviewing and approving SFACS's request to use the Demised Premises on days when the School would otherwise be closed; and
- in addition to the above, for purposes of the New Lease, the Superintendent of Schools shall be the party designated by the Board to grant or deny any approvals required by the New Lease, including without limitation, increasing or decreasing the area of the Demised Premises, amending any of its exhibits, renewing, extending, canceling or terminating the New Lease, and placing SFACS in default.

The proposed Amendment to the Existing Agreement and proposed New Lease have been reviewed by the School Board Attorney's Office and the Office of Risk and Benefits Management for legal sufficiency and risk management issues, respectively, and found to be in compliance. A copy of the proposed Amendment to the Existing Agreement and proposed New Lease, have been placed on file with the Citizen's Information Center and the Recording Secretary.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida, authorize the Superintendent to:

- 1) execute an amendment to the existing lease agreement between the School Board and South Florida Autism Charter Schools, Inc. ("SFACS"), to extend the term of the lease for one month for the operation of a District-managed charter school, located at 13835 N.W. 97 Avenue, Hialeah, Florida, under, substantially, the terms and conditions noted above; and
- 2) execute a new lease agreement with SFACS, to allow for its relocation to a portion of the Country Club Middle School campus, located at 18305 N.W. 75 Place, Miami, Florida, for the continued operation of a District-managed charter school under, substantially, the terms and conditions noted above; and
- 3) grant or deny all approvals required under both lease agreements referenced above, including increasing or decreasing the area occupied by SFACS, and renewing, extending, canceling or terminating the lease agreements, and placing SFACS in default, as applicable.

MCA:mca

Exhibit "A" LOCATION MAP

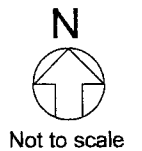
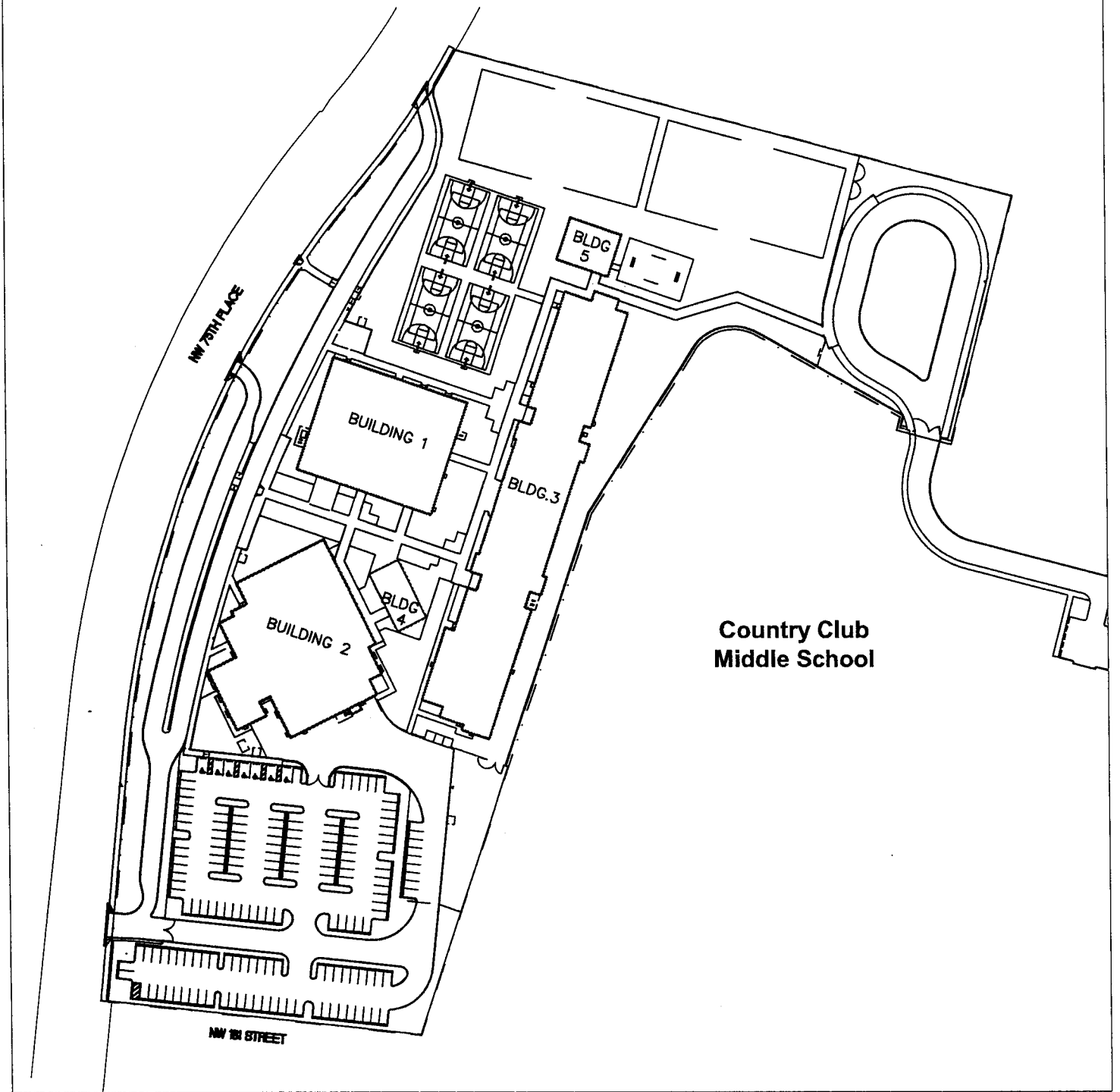


EXHIBIT "A" CONTINUED

**COUNTRY CLUB MIDDLE SCHOOL
18305 N.W. 75 PLACE
MIAMI, FLORIDA**

Building 01 (1st Floor): Rooms 006, 008, 014, 015, 016 and 017

Building 02 (1st Floor): Rooms 053 (shared use)

Building 03 (3rd Floor): Rooms 301, 302, 303, 304, 305, 306, 307, 309, 312, 312A, 313, 314, 317B, 317D, 318, 319, 322, 323, 324, 325, 327, 328, 328A, 329B, 329D, 332, 333, 334, 334A, 335, 337, 338, 338A, 339, 340, 341, 342, 343, 344 and 345

Non-exclusive use of the north side of the playfield area.

SFACS shall have use of six (6) reserved parking spaces within the School parking lot, as assigned and designated by the School administrator or designee. All other employees of SFACS may park in the School parking lot on a first-come first-served basis, in the parking spaces not reserved for School or District staff.

SFACS shall also have non-exclusive use of the School's rear drop-off area on a daily basis from 7:00 a.m. to 7:45 a.m., and from 1:50 p.m. to 3:15 p.m., for parent and bus drop off and pick up.

Total square footage: 24,800